

California Regional Water Quality Control Board  
Santa Ana Region

**Update To The**  
**NOVEMBER 21, 2003**

**AGENDA**

**Please note the following changes to the Agenda:**

Item No.:

- 9        **Waste Discharge Requirements, Bruce Hohn/AVMGH II Limited Partnership, Temescal Creek Remediation Project/Inert Waste Disposal, Corona, Riverside County** — This item has been postponed.
- 11       **Report of Hearing Panel to Full Board, Kaiser Resources** — The Panel Hearing in this matter was postponed; therefore, this item has been removed from the agenda.
- 12       **Public Workshop, Basin Plan Amendment, Related to Nitrogen and Total Dissolved Solids Management in the Santa Ana Region** — Documentation for this item may be viewed on our website.
- 13       **Administrative Civil Liability Complaint, Pyro Spectaculars, Inc., San Bernardino County** — The hearing on the ACL Complaint has been removed from the agenda
- 14       **Mandatory Penalties Complaint, USA Gasoline Corporation, San Bernardino County** — This item has been postponed.
- 15       **Mandatory Penalties Complaint, Ross Pallets, Inc., Orange County** — Discharger has waived the right to a hearing.
- 16       **Mandatory Penalties Complaint, Pilkington Aerospace, Inc., Orange County** — Discharger has waived the right to a hearing.
- 17       **Administrative Civil Liability Complaint, Consolidated Container Co., Orange County** — Discharger has waived the right to a hearing.

California Regional Water Quality Control Board  
Santa Ana Region  
Staff Report  
November 21, 2003

**ITEM 15**

**SUBJECT:** Order No. R8-2003-0128 Affirming Mandatory Penalty Complaint No. R8-2003-0119, Ross Pallets, Inc., Santa Ana, Orange County

**BACKGROUND**

On October 22, 2003, the Executive Officer issued Mandatory Penalty Complaint (MPC) No. R8-2003-0119 to Ross Pallets, Inc. (Ross Pallets) for alleged violations of the State General Permit for Storm Water Runoff Associated with Industrial Activity (General Permit). In the MPC (attached), the Executive Officer proposed an assessment of \$1,000 for the alleged violation.

**INTRODUCTION**

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is whether to adopt Order No. R8-2003-0128 affirming the proposed mandatory penalty complaint against Ross Pallets.

MPC No. R8-2003-0119 was issued by the Executive Officer to Ross Pallets for failing to submit an Annual Report as required by the General Permit.

**DISCUSSION**

The General Permit regulates the discharge of storm water from industrial sites as required under Section 402(p) of the Federal Clean Water Act. Coverage under the permit is obtained by filing a Notice of Intent (NOI), site map, and fee (annual fee of \$700), with the State Water Resource Control Board. One of the requirements of the General Permit is that permittees submit by July 1 of every year, an annual report that documents: storm water sampling and analysis results; visual observations of facility conditions; the facility's Annual Comprehensive Site Compliance Evaluation; and a certification as to the accuracy of the submitted information.

Prior to the July 1, 2003 deadline, a notice from the State Water Resources Control Board (SWRCB) was mailed to Ross Pallets, indicating that a copy of the blank 2002-2003 Annual Report could be accessed via the internet, and that a hard copy would only be mailed if requested. Because the annual report was not received by Board staff by the July 1, 2003 deadline, a Notice of Non-Compliance (NNC) was issued to Ross Pallets, by certified mail, on July 24, 2003. The return receipt showed it was received on July 29, 2003. When Board staff received no response to the first NNC, a second NNC was issued on August 25, 2003, again by certified mail, and was received on September 5, 2003. In both NNCs, Board staff requested submittal of the completed annual report by September 25, 2003, a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time.

Both NNCs also identified the mandatory minimum penalty for failure to submit the annual report by the September 25, 2003 deadline.

On September 17, 2003, Board staff spoke with Ms. Charyto Gardea, Ross Pallets' representative, regarding the facility's non-submittal of the annual report. A blank copy of the annual report was faxed to her on the same day per her request. On September 23, 2003, Board staff spoke with Ms. Gardea again and she requested an extension. Board staff reiterated the mandatory minimum penalty conditions and advised her that no extension could be given. On September 25, 2003, Board staff spoke to Ms. Gardea for a third time. Ms. Gardea stated that the annual report would be received by this office via fax, by the end of the day. The annual report was received in this office on September 30, 2003.

Ross Pallets failed to submit the required Annual Report to the Regional Board office within 60 days from the date on which the original Notice of Noncompliance was sent. Under those circumstances, California Water Code Section 13399.33(c) requires that a mandatory penalty shall be administratively imposed by the Regional Board in an amount that is not less than one thousand dollars (\$1,000).

### **RECOMMENDATION**

Board staff recommends that the Board affirm the assessment of \$1,000 specified in the Mandatory Penalty Complaint issued by the Executive Officer on October 22, 2003, by adopting Order No. R8-2003-0128.

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

<b>In the matter of:</b>	)	<b>Order No. R8-2003-0128</b>
	)	<b>for</b>
<b>Ross Pallets, Inc.</b>	)	<b>Mandatory Minimum Penalty</b>
<b>913 East Walnut Street</b>	)	
<b>Santa Ana, CA 92705</b>	)	
	)	
<b>Attention: Charyto Gardea</b>	)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on November 21, 2003 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2003-0119, dated October 22, 2003, and on the recommendation for the imposition of a mandatory penalty pursuant to Water Code Section 13399.33(c) in the amount of \$1,000. The Board finds as follows:

1. On April 17, 1997, the State Water Resources Control Board (SWRCB) adopted Waste Discharge Requirements, Order No. 97-03-DWQ, (NPDES No. CAS000001), General Permit for Storm Water Discharges Associated with Industrial Activities (Permit). Ross Pallets, Inc. (Ross Pallets), is authorized to discharge storm water under the Permit, WDID 830I017644. The Permit requires Ross Pallets to submit an annual report by July 1 of each year. Prior to the July 1, 2003 deadline, the SWRCB mailed a notice to Ross Pallets indicating that the blank annual report form was available from the website and a hard copy would only be mailed if requested. Ross Pallets did not submit the annual report by July 1, 2003. Subsequently, Board staff sent two certified Notices of Noncompliance (NNCs) to Ross Pallets, the first one on July 24, 2003 and the second one on August 25, 2003. These NNCs reminded Ross Pallets that the annual report had not been received and that there is a mandatory penalty for non-submittal of the annual report. The NNCs required Ross Pallets to submit the annual report by September 25, 2003. Prior to September 25, 2003, Ross Pallets was also reminded by phone to submit the annual report. The annual report was submitted on September 30, 2003.
2. Ross Pallets failed to submit the annual report to the Regional Board office within 60 days from the date of the original Notice of Noncompliance.
3. Water Code Section 13399.33(c) requires the Board to assess a mandatory minimum penalty of one thousand dollars (\$1,000) for non-submittal of an annual report under these circumstances.
4. On October 22, 2003, the Executive Officer issued Mandatory Penalty Complaint No. R8-2003-0119 to Ross Pallets proposing that the Board impose the mandatory minimum penalty of \$1,000 on Ross Pallets for the violations cited above.

5. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED** that, pursuant to California Water Code Section 13399.33(c), a mandatory penalty shall be imposed on Ross Pallets, Inc., in the amount of \$1,000, as proposed in Complaint No. R8-2003-0119 for the violations cited, payable as set forth below.

1. Ross Pallets shall pay \$1,000 to the State Water Resources Control Board by December 22, 2003.
2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 21, 2003.

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Gerard J. Thibeault  
Executive Officer

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

**In the matter of:**

**Ross Pallets, Inc.  
913 East Walnut Street  
Santa Ana, CA 92705**

**Attention: Charyto Gardea**

**Complaint No. R8-2003-0119**

**for  
Mandatory Penalties**

**YOU ARE HEREBY GIVEN NOTICE THAT:**

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on November 21, 2003, at the Eastern Municipal Water District, in the city of Perris. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of mandatory penalties by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed Mandatory Penalties Complaint or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Ross Pallets, Inc. (hereinafter Ross Pallets), located at 913 East Walnut Street in Santa Ana, is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The facility's WDID Number is 830I017644. The General Permit requires submittal of an annual report by July 1 of each year.
5. Prior to the July 1, 2003 deadline, a notice from the State Water Resources Control Board (SWRCB) was mailed to Ross Pallets, indicating that a copy of the blank 2002-2003 Annual Report could be accessed via the internet, and that a hard copy would only be mailed if requested. Because the annual report was not received by Board staff by the July 1, 2003 deadline, a Notice of Non-Compliance (NNC) was issued to Ross Pallets, by certified mail, on July 24, 2003. The return receipt showed it was received on July 29, 2003. When Board staff received no response to the first NNC, a second NNC was issued on August 25, 2003, again by certified mail, and was received on September 5, 2003. In both NNCs, Board staff requested submittal of the completed annual report by September 25, 2003, a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also identified the mandatory minimum penalty for failure to submit the annual report by the September 25, 2003 deadline.


6. On September 17, 2003, Board staff spoke with Ms. Charyto Gardea, Ross Pallets' representative, regarding the facility's non-submittal of the annual report. A blank copy of the annual report was faxed to her attention per her request on the same day. On September 23, 2003, Board staff spoke with Ms. Gardea again and she requested an extension. Board staff reiterated the minimum mandatory penalty conditions and advised her that no extension could be given. On September 25, 2003, Board staff spoke to Ms. Gardea for a third time. Ms. Gardea stated that the annual report would be received by this office via fax, by the end of the day. The annual report was received in this office on September 30, 2003. This facility violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 1, 2003.
7. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs.
8. Based on non-submittal of the 2002-2003 Annual Report, the facility is alleged to have violated the General Permit for 91 days (from July 2, 2003 to September 30, 2003). The total maximum liability for this violation is \$910,000.
9. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a minimum penalty of \$1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code.
10. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes that civil liability be imposed on your facility in the amount of \$1,000 for the violation cited above.

#### WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and mail it, together with a check or money order payable to the State Water Resources Control Board for \$1000. The bottom portion of the invoice, the waiver form, and the check or money order should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please contact Michelle Beckwith at (909) 782-4433, or Mark Smythe at (909) 782-4998. For legal questions, contact the Regional Board's staff counsel, Jorge Leon at (916) 341-5180.

10/22/03  
Date

  
\_\_\_\_\_  
Gerard J. Thibeault  
Executive Officer

In the matter of: )  
)  
Ross Pallets, Inc. )  
913 East Walnut Street )  
Santa Ana, CA 92705 )  
)  
Attention: Charyto Gardea )  
\_\_\_\_\_

Complaint No. R8-2003-0119  
for  
Mandatory Penalties

#### WAIVER OF HEARING

I agree to waive the right of Ross Pallets, Inc. to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0119.

I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of \$1,000. I understand that I am giving up the right of Ross Pallets, Inc. to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
for Ross Pallets, Inc.





# State Water Resources Control Board



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

*The energy challenge facing California is real.  
Every Californian needs to take immediate action to reduce energy consumption.  
For a list of simple ways you can reduce demand and cut your energy costs, see our website at <http://www.swrcb.ca.gov>*

**Gray Davis**  
Governor

**To:**

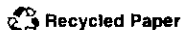
ROSS PALLETS, INC.  
913 E WALNUT STREET  
SANTA ANA, CA 92705

Invoice No: 36761  
Invoice Date: 10/21/2003  
Enforcement Action ID: 79212  
Enforcement Order No: R8-2003-0119

## INVOICE

Milestone ID	Description	Amount	Due Date
51383	LIABILITY AMOUNT	\$1,000.00	11/21/2003
TOTAL AMOUNT DUE		\$1,000.00	

### California Environmental Protection Agency



Retain above portion for your records

Please return bottom portion with your payment

ROSS PALLETS, INC.  
913 E WALNUT STREET  
SANTA ANA, CA 92705

Make your check payable to:

State Water Resources Control Board

Milestone ID	Description	Amount	Due Date
51383	LIABDUE	\$1,000.00	11/21/2003
TOTAL AMOUNT DUE		\$1,000.00	

Mail payment to:

SWRCB ACCOUNTING  
ATTN: ENFORCEMENT  
P. O. Box 100  
SACRAMENTO, CA 95812-0100

Amount Enclosed: \$ \_\_\_\_\_

PLEASE PRINT THE FOLLOWING INVOICE NUMBER ON YOUR CHECK: 36761

Invoice Date: 10/21/2003  
Enforcement Action ID: 79212  
Enforcement Order No.: R8-2003-0119